

1 BILL NO. R-97-10-*28*

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4 RESOLUTION NO.*R-77-97*

5 "AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE  
6 OF NO MORE THAN \$750,000 ECONOMIC DEVELOPMENT  
7 REVENUE BONDS, SERIES 1997 (OTTENWELLER CO., INC.  
8 PROJECT) OF THE CITY OF FORT WAYNE, INDIANA, FOR  
9 THE PURPOSE OF FUNDING A LOAN TO OTTENWELLER CO.,  
10 INC. IN ORDER TO FINANCE THE ACQUISITION AND  
11 INSTALLATION OF EQUIPMENT AND MACHINERY TO BE  
12 UTILIZED IN AN EXISTING MANUFACTURING FACILITY  
13 LOCATED IN THE CITY OF FORT WAYNE, INDIANA;  
14 PROVIDING FOR THE PLEDGE OF REVENUES FOR THE  
15 PAYMENT OF SUCH BONDS; AUTHORIZING THE EXECUTION  
16 OF A BOND PURCHASE AND LOAN AGREEMENT AND A  
17 PROJECT NOTE APPROPRIATE FOR THE PROTECTION AND  
18 DISPOSITION OF SUCH REVENUES AND TO FURTHER  
19 SECURE SUCH BONDS; AND AUTHORIZING SUCH OTHER  
20 ACTIONS IN CONNECTION WITH THE ISSUANCE OF SUCH  
BONDS."

21 WHEREAS, the City of Fort Wayne, Indiana (the "Issuer"), is a municipal  
22 corporation and political subdivision of the State of Indiana, and by virtue of the  
23 constitution and laws of the State, including Indiana Code, Title 36, Article 7, Chapters  
24 11.9 and 12, as supplemented and amended (the "Act"), is authorized and empowered,  
25 among other things, to (a) provide funds for the acquisition, construction, installation  
and equipping of economic development facilities; (b) issue its revenue bonds for the  
purpose set forth herein; (c) secure such revenue bonds by a pledge and assignment of  
revenues and other documents as provided for herein; and (d) enact this Ordinance (the  
"Bond Ordinance"), execute the Loan Agreement (as hereinafter defined) and all other  
documents to be executed by it, upon the terms and conditions provided therein; and

26 WHEREAS, the Common Council of the Issuer (the "Council") has found and  
27 determined, and does hereby confirm, that the "economic development facilities" to be  
28 financed with the proceeds of the Bonds herein authorized (the "Project") will be to the  
29 benefit of the health and general welfare of the citizens of the City of Fort Wayne,  
Indiana, and that the Issuer, by assisting with the financing of the Project through the  
issuance of revenue bonds in the aggregate principal amount not to exceed \$750,000,  
will be acting in a manner consistent with and in furtherance of the provisions of the  
Act; and

1            WHEREAS, as a result of negotiations between the Issuer and Ottenweller Co.,  
2 Inc., an Indiana corporation (the "Borrower"), contracts have been or will be entered  
3 into by the Borrower for the purpose of the acquisition and installation of the Project  
4 to be located in the City of Fort Wayne, Indiana, and such Project shall consist of the  
5 acquisition and installation of equipment and machinery to be utilized in an existing  
6 manufacturing facility located at 3011 Congressional Parkway, Fort Wayne, Indiana;  
7 and

8            WHEREAS, the Project will be used by the Borrower for the manufacture of  
9 fabricated metal parts for the construction, agricultural, industrial equipment, and H-  
10 D truck manufacturers industries; and

11           WHEREAS, pursuant to a Bond Purchase and Loan Agreement (the "Loan  
12 Agreement"), dated the date of closing, among the Issuer, the Borrower and NBD  
13 Bank, N.A., as original purchaser of the Bonds (the "Holder"), the Issuer proposes to  
14 issue its \$750,000 Economic Development Revenue Bonds, Series 1997 (Ottenweller  
15 Co., Inc. Project) (the "Bonds") to provide funds for the Project, by lending such  
16 funds to the Borrower pursuant to the Loan Agreement which prescribes the terms  
17 and conditions under which the Borrower shall repay such loan and pursuant to  
18 which the Borrower will execute and deliver to the Issuer its promissory note (the  
19 "Project Note") in the principal amount equal to the aggregate principal amount of  
20 the Bonds; and

21           WHEREAS, pursuant to the provisions of Section 36-7-12-24(a) of the Act and  
22 Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), a  
23 public hearing on the proposed plan of financing of the Project was held by the  
24 Economic Development Commission (the "Commission") of the Issuer, prior to the  
25 adoption of this Ordinance, pursuant to notice caused to be published by the  
26 Commission in *The Journal Gazette* and *The News-Sentinel*, each being a newspaper  
27 of general circulation in the City of Fort Wayne, Indiana, on October \_\_\_, 1997 and  
28 October \_\_\_, 1997, respectively.

29           NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL  
30 OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

31           Section 1. Definitions. In addition to the words and terms defined in this  
32 Ordinance, the words and terms used in this Ordinance shall have the meanings set  
33 forth in the Loan Agreement, the Project Note, and in the form of the Bonds unless  
34 the context or use indicates another or different meaning or intent.

35           Section 2. Determination of Issuer. Pursuant to the Act, and based solely upon  
36 the application submitted by the Borrower and other representations made,  
37 information presented and testimony given by representatives of the Borrower,

1 without independent verification, the Issuer hereby finds and determines that (a) the  
2 Project is an "economic development facility" as defined in the Act and is consistent  
3 with the provisions of the Act, (b) the Project will not have an adverse competitive  
4 effect on similar industrial projects already constructed or operating in the City of  
5 Fort Wayne, Indiana, and (c) in order to relieve a condition of unemployment in the  
6 City of Fort Wayne, Indiana, to promote opportunities for gainful employment and  
7 business opportunities in the City of Fort Wayne, Indiana, and to benefit the health  
8 and general welfare of the citizens of the City of Fort Wayne, Indiana, the Project  
9 shall be and is hereby approved and authorized to be financed through the issuance of  
10 the Bonds as described herein.

11 The Issuer further determines that the action of the Commission in causing  
12 notice of said public hearing to be published as required by Section 36-7-12-24(a) of  
13 the Act and Section 147(f) of the Code, and in causing a report to be provided to the  
14 executive director or chairman of the plan commission having jurisdiction over the  
15 Project, is in all respects hereby ratified, confirmed and approved, and the holding of  
16 said public hearing by the Commission and the delivery of such report are hereby  
17 acknowledged and approved. The Mayor, as the "applicable elected representative"  
18 of the Issuer for purposes of Section 147(f) of the Code, has concurrently herewith  
19 approved the issuance of the Bonds in the aggregate principal amount not to exceed  
20 \$750,000 to assist in the acquisition and installation of the Project as hereinbefore  
provided.

21       Section 3. Small Issue Election of Issuer. The Issuer hereby elects to have the  
22 provisions as to the \$10,000,000 limitation contained in Section 144(a)(4)(A) of the  
23 Code apply to the Bonds

24       Section 4. Authorization of Bonds. There are hereby authorized to be issued,  
25 sold and delivered the Bonds designated as "City of Fort Wayne, Indiana, Economic  
26 Development Revenue Bonds, Series 1997 (Ottenweller Co., Inc. Project)" in an  
aggregate principal amount not to exceed Seven Hundred Fifty Thousand Dollars  
(\$750,000), for the purpose of paying a portion of the cost of the acquisition and  
installation of the Project.

27       Section 5. Terms and Execution of the Bonds. The Bonds shall be issued as  
28 fully registered Bonds, without coupons, in the form and denominations set forth in  
29 the Loan Agreement; shall bear such date as provided in the Loan Agreement; shall  
30 mature no later than 8 years from the date of issue and shall bear interest at a variable  
rate equal to 86% of the Prime Rate (as defined in the Loan Agreement); shall be  
subject to redemption prior to maturity upon the terms and conditions set forth in the  
Loan Agreement; shall be payable at such place or places and in such medium as  
provided in the Loan Agreement; and shall contain such other terms and provisions  
as are set forth in the Loan Agreement.

1           The Bonds shall be executed on behalf of the Issuer by the manual or facsimile  
2           signatures of the Mayor of the Issuer and the City Clerk of the Issuer, and the seal of  
3           the Issuer shall be impressed thereon or a facsimile of such seal placed thereon. If  
4           the Bonds are issued without a trust indenture or trustee, at least one of the  
5           authorized signatures on the Bonds shall be manual. In case any officer whose  
6           signature or a facsimile thereof shall appear on the Bonds shall cease to be such  
7           officer before the issuance or delivery of the Bonds, such signature or facsimile  
8           thereof shall nevertheless be valid and sufficient for all purposes, the same as if he  
9           had remained in office until after that time.  
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11           The Bonds are special, limited obligations of the Issuer payable solely from  
12           payments of principal of, premium, if any, and interest on the Bonds made by the  
13           Borrower under the Project Note and the Loan Agreement except to the extent that  
14           the principal of, premium, if any, and interest on the Bonds may be paid out of  
15           money attributable to Bond proceeds or from temporary investments or from other  
16           moneys, if any, accruing to the Holder.  
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18           Pursuant to the Loan Agreement, the Issuer will assign to the Holder the Issuer's rights under the Loan Agreement and the Project Note (except for the Unassigned Issuer Rights, as defined in the Loan Agreement), as security for the payment of the Bonds. As a result of the Issuer's assignment as hereinbefore provided, the Issuer will have no ownership interest in the Project.  
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20           The Bonds and the obligation to pay interest thereon do not now and shall  
21           never constitute a debt, a liability, a general obligation or a pledge of the faith and credit of the Issuer, the State of Indiana or any political subdivision thereof, or a charge against the general faith and credit or taxing powers, if any, of any of them, within the meaning of any constitutional or statutory provision, but shall be secured as aforesaid, and are payable solely from the revenues and receipts derived from the Loan Agreement and the Project Note. No Holder of the Bonds shall have the right to compel the taxing powers, if any, of the Issuer, the State of Indiana or any political subdivision thereof to pay any principal of, premium, if any, or interest on the Bonds. Neither the members of the Issuer nor any person executing the Bonds shall be subject to personal liability or accountability by reason of the issuance of the Bonds.  
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23           The Borrower will indemnify and hold the Issuer, its members, the Commission, its members and the State of Indiana, including its attorneys, employees and agents, free and harmless from any loss, claim, damage, tax, penalty, liability, disbursement, litigation expenses, attorneys' fees and expenses or court costs arising out of, or in any way relating to, the execution or performance of the Loan Agreement, the Project Note or any other documents in connection therewith, including the issuance or sale of the Bonds, actions taken under the Loan Agreement, the Project Note or any other cause whatsoever pertaining to the Project or the Bonds, except in any case as a result of the gross negligence or willful misconduct of  
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the Issuer.

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Section 6. Authorization of the Loan Agreement, Project Note and All Other Documents to be Executed by the Issuer. In order to secure the payment of the principal of, premium, if any, and interest on the Bonds, the Mayor of the Issuer and the City Clerk of the Issuer, shall execute, acknowledge and deliver in the name and on behalf of the Issuer, the Loan Agreement and shall endorse the Project Note to the Holder in substantially the form submitted to the Council, with such changes therein as such officials, with the advice of counsel, may approve and determine, as conclusively evidenced by their execution thereof, to be advisable and in the best interests of the Issuer and in conformance with this Ordinance, but only if such changes do not affect the terms set forth in I.C. 36-7-12-27(a)(1) through (10). The documents before this meeting, including the Loan Agreement and the Project Note, have been approved in the forms submitted. The City Clerk of the Issuer is hereby directed to keep such Loan Agreement and the Project Note on file and open for public inspection.

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Section 7. General. The Mayor of the Issuer and the City Clerk of the Issuer, are hereby authorized and directed, in the name of and on behalf of the Issuer, to execute any and all instruments, documents and certificates, perform any and all acts, approve any and all matters, and do any and all things deemed by them to be necessary or desirable in order to carry out the purposes of this Ordinance (including the preambles hereto), the acquisition and installation of the Project by the Borrower, the issuance and sale of the Bonds pursuant to the Loan Agreement and the securing of the Bonds under the Loan Agreement and the Project Note.

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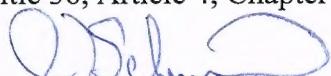
Section 8. Invalidity. If any section, paragraph, clause or provision of this Ordinance shall be ruled by any court of competent jurisdiction to be invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions.

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Section 9. Conflicts. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.

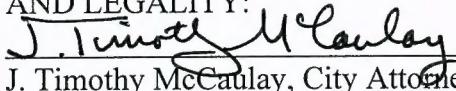
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Section 10. Effective Date. This Ordinance shall be in full force and effect upon compliance with Indiana Code, Title 36, Article 4, Chapter 6.



Council Member

APPROVED AS TO FORM  
AND LEGALITY:

  
J. Timothy McCaulay, City Attorney

Read the first time in full and on motion by DeNeuck,  
and duly adopted, read the second time by title and referred to the Committee on  
Hansen, (and the City Plan Commission for recommendation)  
and Public Hearing to be held after due legal notice, at the Common Council Conference  
Room 128, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_,  
the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_  
o'clock \_\_\_\_\_ M., E.S.T.

DATED: 10-28-97

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by DeNeuck,  
and duly adopted, placed on its passage. PASSED LOST  
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>9</u>			
BENDER	<u>✓</u>			
CRAWFORD	<u>✓</u>			
EDMONDS	<u>✓</u>			
HALL	<u>✓</u>			
HAYHURST	<u>✓</u>			
HENRY	<u>✓</u>			
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			

DATED: 11-18-97

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana,  
as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL)

(ZONING) ORDINANCE RESOLUTION NO. R-77-97  
on the 18th day of November, 1997

Sandra E. Kennedy ATTEST: Thomas P. Kelly  
SANDRA E. KENNEDY, CITY CLERK SEAL PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the  
19th day of November, 1997,  
at the hour of 10:30, o'clock M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 21st day  
of November, 1997, at the hour of 8:30  
o'clock A M., E.S.T.

P. Helmke  
PAUL HELMKE, MAYOR

**DIGEST SHEET**

**TITLE OF ORDINANCE:** A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF NO MORE THAN \$750,000 ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 1997 (OTTENWELLER CO., INC. PROJECT) OF THE CITY OF FORT WAYNE, INDIANA, FOR THE PURPOSE OF FUNDING A LOAN TO OTTENWELLER CO., INC. IN ORDER TO FINANCE THE ACQUISITION AND INSTALLATION OF EQUIPMENT AND MACHINERY TO BE UTILIZED IN AN EXISTING MANUFACTURING FACILITY LOCATED IN THE CITY OF FORT WAYNE, INDIANA; PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF SUCH BONDS; AUTHORIZING THE EXECUTION OF A BOND PURCHASE AND LOAN AGREEMENT AND A PROJECT NOTE APPROPRIATE FOR THE PROTECTION AND DISPOSITION OF SUCH REVENUES AND TO FURTHER SECURE SUCH BONDS; AND AUTHORIZING SUCH OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS.

**DEPARTMENT REQUESTING ORDINANCE:** Economic Development

**SYNOPSIS OF ORDINANCE:** This resolution approves an inducement resolution of the Economic Development Commission authorizing the issuance of \$1,900,00 in first mortgage revenue bonds to enable Ottenweller Company, Inc to construct a 35,000 square foot addition and to acquire additional equipment at its current site.

**EFFECT OF PASSAGE:** Ottenweller Company, Inc. will be enabled to secure equipment enabling the creation of 8 additional jobs at start up and 25 additional jobs within 3 years.

**EFFECT OF NON-PASSAGE:** Financing will fail and the additional jobs may be lost.

**MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS):** None.

**ASSIGNED TO COMMITTEE (PRESIDENT):** \_\_\_\_\_



# The City of Fort Wayne

Paul Helmke, Mayor

October 27, 1997

To the Members of Common Council:

Enclosed please find a Resolution to authorize the issuance of \$750,000.00 of Economic Development Revenue bonds for Ottenweller Company, Inc. to allow them to acquire additional equipment for their existing location recently enlarged. Applicant represents that 8 additional jobs at start up will be created with a total of 25 additional jobs at the end of 3 years.

The resolution ratifies the Economic Development Commission Inducement resolution and authorizes the financing and induces the Applicant to proceed with the construction and equipping of the project.

The bond issue is to be a limited obligation issue and will not impact the tax rate or the city's bonding capacity.

A failure to pass the resolution would cause the borrower to face increased interest expenses or to abandon the project.

If this issue is to qualify for the Indiana Revenue Bond volume cap, it must be closed by December 4, 1997. Developer received notice of its potential qualification for the volume cap on October 20, 1997

Very truly yours,

CITY OF FORT WAYNE ECONOMIC  
DEVELOPMENT COMMISSION

R. David Boyer,  
Associate City Attorney

RDB:alc  
Enclosure

BILL NO. R-97-10-28

REPORT OF THE COMMITTEE ON FINANCE

DONALD J. SCHMIDT - JOHN N. CRAWFORD - CO-CHAIR  
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED AN ~~(ORDINANCE)~~ (RESOLUTION) authorizing the issuance and sale of no more than \$750,000 Economic Development Revenue Bonds, Series 1997 (Ottenweller Co., Inc. Project)

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\_\_\_\_\_  
\_\_\_\_\_

HAVE HAD SAID ~~(ORDINANCE)~~ (RESOLUTION) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ~~(ORDINANCE)~~ (RESOLUTION) \_\_\_\_\_

DO PASS

DO NOT PASS

ABSTAIN

NO REC

<u>O'Brien</u>	_____	_____	_____
<u>Thomas Taylor</u>	_____	_____	_____
<u>Martin J. Bawiec</u>	_____	_____	_____
<u>Johnie Miller</u>	_____	_____	_____
<u>Reilee Davis</u>	_____	_____	_____
<u>Mychal George</u>	_____	_____	_____
<u>Pedro Hall</u>	_____	_____	_____
<u>Clinton R. Edmonds</u>	_____	_____	_____

DATED: 11-18-97

Sandra E. Kennedy  
City Clerk